

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

B.R. AND M.S., for themselves and)	No. ED101941
As next friend of J.R., a minor child,)	
)	
Appellants,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	Honorable Tom W. DePriest, Jr.
MISSOURI DEPARTMENT OF)	
SOCIAL SERVICES, et al.,)	
)	
Respondents.)	FILED: May 12, 2015

B.R. and M.S. ("Appellants") appeal from the trial court's judgment involving administrative review of the decision and order of the Children's Division of the Missouri Department of Social Services ("the Division"), denying Appellants' request for an adoption care subsidy for the residential treatment of their daughter, J.R., at a specific residential care facility.

REVERSED AND REMANDED.

Division Four Holds: Appellants produced substantial competent evidence that Change Academy of the Lake of the Ozarks ("CALO") was the best place for their adoptive daughter diagnosed with reactive attachment disorder to receive residential treatment because there is no other service provider having a contract with the Division who is reasonably available to provide the same service. The Division had generally approved residential treatment in the Adoption Subsidy Agreement Attachment, and adoptive parents are responsible for making arrangements for actual placement into a residential facility. 13 CSR 35-38.010(12)(B)1.F. Although CALO did not have a contract with the Division for direct payment, Appellants sought prior written approval for their adoptive daughter's placement at CALO, but the Division denied the request and Appellants should be allowed to appeal that denial. 13 CSR 35-38.010(6)(F); 13 CSR 35-38.010(15). The Missouri statutes governing adoption, Sections 453.010 to 453.400, RSMo Supp. 2007, are to be construed "so as to promote the best interests and welfare of the child in recognition of the entitlement of the child to a permanent and stable home." Section 453.005; J.P. v. Mo. Dep't of Soc. Servs., 752 S.W.2d 847, 849 (Mo. App. W.D. 1988). A suggestion by the Division that the child should have had more time at a contracted residential treatment facility, which failed treating her because she ran away, should not place a heavier burden on adoptive parents attempting to show that no other contracted facility is available to provide the same service as CALO.

The judgment is reversed and the case is remanded to the circuit court with directions to remand to the Director of the Division to award the adoption subsidy reimbursement consistent with this opinion.

Opinion by: Roy L. Richter, J.
Patricia L. Cohen, P.J., and Robert M. Clayton III, J. concur.

Attorney for Appellant: John C. Grellner

Attorney for Respondent: Chris Koster, Denise G. McElvein

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.